

# **WILLIAMSBURG BOARD OF ZONING APPEALS MINUTES**

March 2, 2004

The regular meeting of the Williamsburg Board of Zoning Appeals was held on Tuesday, March 2, 2004 at 3:00 p.m. in the Williamsburg Municipal Building, 401 Lafayette Street.

## **ATTENDANCE**

Present were Board members Carr, Kafes, Knudson, Chohany, and White. Also present were Zoning Administrator Murphy and Secretary Scott.

## **CALL TO ORDER AND MINUTES**

Chairman Knudson called the meeting to order.

Mr. Chohany moved that the minutes of the January 6, 2004 meeting be approved. The motion was seconded by Mr. Kafes and carried by roll call vote of 5-0.

As a point of order, Board member White stated that, due to a conflict of interest, she will refrain from any discussion or voting on the following case.

## **PUBLIC HEARINGS**

**BZA #04-002:** Request of George Tsoucalas for a variance from Section 21-481 of the Zoning Ordinance for the maximum lot coverage requirements established by the Port Anne Planned Unit Development and a special exception in accordance with Section 21-826 of the Zoning Ordinance to reduce the Resource Protection Area buffer. The applicant proposes two options to amend the approval granted by the Board of Zoning Appeals on August 5, 2003 (BZA #03-015) for the location of a balcony and trellis on the lot. Option A requires a variance of 238 square feet from the maximum lot coverage requirement allowed for the lot (2500 square feet) and a special exception to locate a 14'x19' trellis at ground level at the edge of wetlands and a 12'x20' balcony on the second floor approximately two feet from the edge of the wetlands. Option B requires a variance of 58 square feet from the maximum lot coverage requirement allowed for the lot (2500 square feet) and a special exception to locate a 14'x20' balcony/trellis at ground level at the edge of wetlands and a 12'x20' balcony/trellis on second floor approximately two feet from the edge of wetlands. The property is located at 8 Wildwood Lane, Williamsburg Tax Map Number 555-(04)-00-064, in the Port Anne Subdivision, zoned Planned Unit Development. Denied.

Chairman Knudson introduced the request and noted that in addition to herself, Board members Chohany, Carr, and Kafes visited the site at some time prior to this meeting. Mrs. White did not visit the site.

Mrs. Knudson invited the applicant to comment.

Applicant George Tsoucalas and his legal representative, Vernon Geddy, came forward for comments. Mr. Geddy stated that the applicant would like for Option B to be considered; Option A has been taken off the table.

Mr. Geddy said that the second floor rear elevation will have a three-foot balcony completely hidden between two bay windows. Also, the twelve-foot trellis request is to install 2' x 8' beams spaced every two to three feet to allow for light and air flow. There is a three-foot roof overhang which is not counted toward the square footage. He said the trellis will not impact the RPA or water quality and no impervious surface will be created.

Mr. Tsoucalas noted that the *Port Anne Guidelines* offer no guidance for balconies, and the proposed balcony will not be visible to his neighbors. He added that the City treasurer told him that although there is no value attached to a cantilevered balcony, if it is supported there would be an \$18/square foot value attached. Mr. Tsoucalas clarified that with Option B the balcony would occupy the first three feet and the remaining nine feet will be trellis that will not have sufficient load-bearing strength for a human to stand on. In answer to a question regarding the lot coverage, Mr. Tsoucalas responded that without the balconies the coverage is 2498 square feet and with the balconies it is 2558. Maximum allowed is 2500 square feet. Mrs. Murphy noted that a balcony is part of lot coverage. She made reference to other balconies in the Port Anne development that are purely decorative.

Chairman Knudson opened the public hearing.

**Nancy Hess**, 5 Wildwood Lane, noted that the back of the Tsoucalas' house faces north, is not in the direct sun and there are many trees on the lot which would provide shade.

**Brendan Wittlinger**, One Wildwood Lane, stated that the balcony on his house is decorative only, serves no function, and air flow is gained from opening doors. His footprint is 150 feet under the maximum allowed.

There being no additional comment, the public hearing was closed.

Mrs. White again stated that she will abstain from comment and vote on this case.

Mr. Kafes moved that the variance request option B be approved and the special exception be approved with the following contingencies:

1. The dimensions and design calculations for the infiltration trench and drywells must be submitted and approved by the City prior to obtaining any land disturbing or building permits for property.
2. A BMP maintenance agreement must be submitted, approved and recorded for the infiltration trench and dry wells before any land disturbing or building permits can be issued for the property.
3. A certification letter acceptable to the City confirming that the infiltration trench and dry wells were installed as approved by the City must be received before a certificate of occupancy can be issued for the dwelling.
4. A landscape plan must be submitted to and approved by the Zoning Administrator, and all plant material must be installed prior to the issuance of a Certificate of Occupancy for the dwelling to mitigate the nonpoint source pollution.

Mr. Kafes stated that the motion for approval is based on the exceptional topographic conditions of the property as to the requested variance and there being no adverse effect on the RPA as regards the requested special exception. He elaborated with respect to the variance request that the downward slope of the property at the rear of the house precluded outdoor access at the first floor level to the rear. Thus a balcony made sense to provide the residents an outdoor exposure to the rear of the first floor. He also noted that the balcony would be encompassed between the two rear wings of the house and would not present any visual sense of intruding into the rear yard area. Next as regards the proposed special exception to permit a trellis in a portion of the RPA, Mr. Kafes noted that absent the Chesapeake Bay area protection zone, the trellis would be permitted as a matter of right without the need for a special exception. Thus the sole issue is whether or not the trellis would pose an environmental problem for the Bay. He concluded that the conditions to the grant of a special exception, each of which was suggested by the City authorities, would, when adhered to, provide reasonable assurance that the trellis would not pose an environmental hazard. In this situation Mr. Kafes stated his opinion that to refuse the special exception on these terms would be arbitrary and unreasonable.

The motion died for lack of a second.

Board members had the following points:

- This is new construction and is a self-imposed condition.
- Approval would set a poor precedence in Port Anne.
- Shade and air flow can be accomplished in other ways.

Mr. Kafes asked the applicant if he would still request the special exception if the variance was not approved, and Mr. Tsoucalas answered that he would. Mr. Kafes suggested that in fairness to the applicant the Board consider the requests

separately, and moved that the trellis be approved as a special exception. Mr. Carr seconded the motion which was denied by roll call vote of 1-3-1.

Recorded vote on the motion:

Aye: Kafes,  
No: Carr, Knudson, Chohany  
Absent: None  
Abstain: White

Mr. Chohany said he regards the requests as one application. Mr. Carr added that this lot has come before the Board for review three times, the second time the request was approved, but he cannot support this request. Mrs. Knudson stated that she agrees with both Mr. Chohany and Mr. Carr, and that the Board needs to be very careful with the establishment of precedents.

Mr. Kafes argued that it is not pertinent that the applicant has previously been before the Board, and because approval of the special exception would have no adverse effect on the RPA, he believes it would be unreasonable to deny the special exception.

Mr. Chohany moved that the request for variance option B, which requires a variance of 58 square feet from the maximum lot coverage requirements allowed for the lot, and the special exception to reduce the Resource Protection Area buffer, be denied. He added that the motion is based on it not being a justified precedent for the neighborhood and that it is a self-imposed condition. Mr. Carr seconded the motion which carried by roll call vote of 3-1-1.

Recorded vote on the motion:

Aye: Carr, Knudson, Chohany  
No: Kafes  
Absent: None  
Abstain: White

## **OLD BUSINESS - None**

## **NEW BUSINESS**

### Signage

Mrs. Murphy reported that Planning Director Nester will attend a future BZA meeting and discuss with the Board not only the Comprehensive Plan, but also signage issues.

**OTHER**

Court Case

The Matoaka Court case will be heard on March 10 at 8:30 a.m. Mrs. White reported to the Board that she has spoken with the City attorney about the case and has forwarded him some seminar materials she thought he might find useful.

There being no further business the meeting adjourned at 3:50 p.m.

Respectfully submitted,

Judith N. Knudson, Chairman  
Board of Zoning Appeals